IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 24558 of 2005

Between:

Pujari Balakonda

..... PETITIONER

AND

The Joint Collector,

Anantapur and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the clause 3(5) of Annexure to the A.P.Public Distribution System (Control Order) 2001, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner was appointed as a fair price shop dealer of Indukallu village, Settur Mandal, Anantapur District in the year 1987 and every since he has been distributing the essential commodities to the cardholders. While so, the dealership of the petitioner has been suspended for the reasons that he has involved in a criminal case in Cr.No.10/2005 of Settur Police Station for the offence under Section 307 read with Section 34 of I.P.C. by proceedings dated 20.09.2005 of the 2nd respondent. As against the said order, the petitioner filed an appeal before the 1st respondent. The appellate authority, while considering the contentions of the petitioner that the dealership of the petitioner was suspended without giving any notice and the petitioner was subsequently implicated in the said case, passed order on 30.10.2005, stating that as per the remand report dated 13.09.2005 of the Sub Inspector of Police, Settur, the petitioner is one of the accused in a case of attempt to murder and as the petitioner involved in a criminal case, while rejecting the appeal, remanded the matter to the 2nd respondent for disposal as per the condition No.3(5) of the Annexure to the Andhra Pradesh Public Distribution System (Control) Order, 2001.

As per Condition No.3(5) of the Andhra Pradesh Public Distribution System (Control) Order, 2001, the authorization granted under the said control order is liable for suspension or cancellation if the fair price shop dealer is involved in any criminal case or when any case under Essential Commodities Act, 1955 or any other similar law is pending against such dealer.

The learned counsel for the petitioner submitted that merely because a criminal case

is pending or a case under Essential Commodities Act is pending, it is not open for the licensing authority to straight away suspend the authorization of the petitioner as a substantive measure of punishment. He further submitted that the main clause 5(4) of the Andhra Pradesh Public Distribution System (Control) Order, 2001 empowers the appointing authority to suspend or cancel the authorization, after making an enquiry, by an order recording the reasons.

In the instant case, straight away the authorization of the petitioner has been suspended without conducting any enquiry. Therefore, I am of the opinion that the impugned order passed by the 2nd respondent, as confirmed by the 1st respondent, in suspending the authorization of the petitioner for an indefinite period as a substantive measure of punishment, is illegal and unsustainable. However, as the 2nd respondent is empowered to suspend the authorization pending enquiry, the impugned order will have to be treated as an order of suspension pending enquiry.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, with a direction to the

2nd respondent to treat the impugned order dated 20.09.2005 as an order of suspension pending enquiry and initiate appropriate proceedings and pass final orders, in accordance clause 5(4) of Andhra Pradesh Distribution System (Control) Order, 2001 read with Condition No.3(5) of the Annexure to the Andhra Pradesh Distribution System (Control) Order, 2001.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

Dated: 30.11.2005

Dsr